

Labor Committee

February 23, 2010

S.B. # 61 Opposition – Reasonable and Necessary authority to Commissioners.

- It is my opinion that the inclusion of “Reasonable and Necessary” plenary (new assessment of medical facts) authority of review now gives the same authority to the Workers Compensation Commissioners that the doctors only now have in WC Sec. 31-294d. Here is (f) one of the major changes in SB # 61 Raised Bill to the current statute.
- (f) The Workers' Compensation Commission shall have plenary authority for review of decisions with respect to the provision or denial of medical care under any plan approved by the chairperson under subsection (d) of this section and may determine whether such medical care is reasonable or necessary.
- Under Sec. 31-294d of the Workers Compensation Act following, the physicians only have the authority to determine what is reasonable or necessary.

Sec. 31-294d. Medical and surgical aid; hospital and nursing service. (a)(1) The employer, as soon as the employer has knowledge of an injury, shall provide a competent physician or surgeon to attend the injured employee and, in addition, shall furnish any medical and surgical aid or hospital and nursing service, including medical rehabilitation services and prescription drugs, **as the physician or surgeon deems reasonable or necessary.** The employer, any insurer acting on behalf of the employer, or any other entity acting on behalf of the employer or insurer shall be responsible for paying the cost of such prescription drugs directly to the provider.

- In a Workers Compensation case I spoke to you about in 2008, here is the Compensation Review Board Opinion by the Chairman.
- **“Whether a proposed surgical procedure is reasonable . . . is a question of fact for the commissioner to resolve.”** Chairman Workers Compensation John Mastropietro CASE NO. 5164 CRB-8-06-11 VANNOY-JOSEPH v. STATE OF CONNECTICUT
- Obviously the Chairman already believes the Workers Compensation has the authority to determine what is reasonable and necessary.
- Also in Vannoy the Chairman has stated. “We remand the trial commissioner’s decision after clarifying the standard of scientific evidence needed to approve an unconventional surgical procedure.”
- The medically **reasonable or necessary** treatment recommended by the doctors is presently worthless due to the dilatory Workers Compensation practices subjecting treatment delays for years. If the spirit of Sec. 31-294d was operating per statute, injured workers would be receiving immediate and continuing care.

Sec. 31-296a. Discontinuance or reduction of payments under oral agreements. "No employer shall discontinue or reduce payment on account of total or partial incapacity under any oral agreement or in any case where the employer's acceptance of compensability has been conclusively presumed under subsection (b) of section 31-294c because of failure to file a timely notice contesting liability, if it is claimed by or on behalf of the injured person that his incapacity still continues, unless such employer notifies the commissioner and the employee of the proposed discontinuance or reduction in the manner prescribed in section 31-296 and the commissioner specifically approves such discontinuance or reduction in writing."

Sec. 31-296. Voluntary agreements. (b) ... "No discontinuance or reduction of total or partial incapacity shall become effective under any such agreement unless specifically approved in writing by the commissioner...."

- The 1993 legislation requiring all WC Commissioners be lawyers made the WC Statute into a Civil Process like Superior Court, but without rules. The present Workers Compensation Commission operates upon Case Precedents they set in Compensation Review Board decisions and Connecticut and all other states Civil Court decisions.
- In Vannoy 5164 CRB-8-06-11 the Workers Compensations Commissioner have exceeded the boundaries of reasonable and necessary and made themselves scientists.
- This proposal SB # 61 to give Workers Compensation Commissioner authority for reasonable and necessary medical treatment decisions will make WC Commissioners doctors.
- The best thing this committee can do for Injured Workers is the authorize a review to determine if We are currently getting the benefits deserved under present statutes before intitiating unwarrenated changes.



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Proposed Senate Bill # 61 may be viewed here:

<http://www.cga.ct.gov/2010/TOB/S/2010SB-00061-R00-SB.htm>